

K&L GATES

July 16, 2020

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BY ECF

Honorable Allyne R. Ross
United States District Court Judge for the
Eastern District of New York
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Sergey Chernysh v. Chembio Diagnostics, Inc., Richard L Eberly, and Gail S. Page, 20-cv-02706; James Gowen v. Chembio Diagnostics, Inc. et al., 20-cv-02758; Anthony Bailey v. Chembio Diagnostics, Inc., et al., 20-cv-02961*

Dear Judge Ross:

We represent Defendant Chembio Diagnostics, Inc. in the referenced actions (the "Related Actions").

We write to advise the Court that the parties to the Related Actions have agreed, subject to the Court's approval, to the terms of the enclosed stipulation and [proposed] order concerning scheduling. Pursuant to the stipulation and [proposed] order, no defendant is required to answer or otherwise respond to the complaints filed in each of the Related Actions until after a lead plaintiff and lead counsel have been appointed by the Court. Once a lead plaintiff and lead counsel have been appointed, the parties will confer within ten (10) days of such order and propose a schedule to the Court for the filing of a consolidated amended complaint and defendants' response thereto.

No previous requests for an extension in the time to respond to the complaint have been made and Plaintiffs consent to the extension.

Thank you for your consideration.

Very truly yours,

/s/ Joanna A. Diakos
Joanna A. Diakos
Attachment

**IN THE DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

SERGEY CHERNYSH, individually and on behalf of all others similarly situated,)	
)	Case No. 2:20-cv-02706-ARR-ARL
)	
Plaintiff,)	Related Cases: 20-cv-02758 and
)	20-cv-02961
v.)	
)	
CHEMBIO DIAGNOSTICS, INC., RICHARD)	
L. EBERLY and GAIL S. PAGE,)	
)	
Defendants.)	

**STIPULATION AND [PROPOSED] ORDER
CONCERNING SCHEDULING**

WHEREAS, on June 18, 2020, plaintiff Sergey Chernysh filed a putative class action complaint in this Court under Civil Action No. 20-cv-2706 asserting claims under Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”), Rule 10b-5 promulgated thereunder, and Section 20(a) of the Exchange Act against Chembio Diagnostics, Inc., Richard L. Eberly and Gail S. Page (the “*Chernysh* Action”);

WHEREAS, on June 22, 2020 Plaintiff James Gowen filed a putative class action complaint in this Court under Civil Action No. 20-cv-02758 asserting claims under Section 10(b) of the Exchange Act, Rule 10b-5 promulgated thereunder, and Section 20(a) of the Exchange Act against Chembio Diagnostics, Inc., Richard L. Eberly, and Gail S. Page (the “*Gowen* Action”);

WHEREAS, on July 3, 2020, Plaintiff Anthony Bailey filed a putative class action complaint in this Court under Civil Action No. 20-cv-02961 asserting claims under Section 10(b) of the Exchange Act, Rule 10b-5 promulgated thereunder, and Section 20(a) of the Exchange Act against Chembio Diagnostics, Inc., Richard L. Eberly, Gail S. Page, and Neil A Goldman (the “*Bailey* Action”);

WHEREAS, the *Chernysh and Gowen* and *Bailey* Actions each have been assigned to this Court as related actions (together the “Related Actions”), and each involve the same or substantially similar issues of law and fact, and assert the same purported causes of action against similar defendants on behalf of substantially similar putative classes;

WHEREAS, plaintiffs in the above-referenced Related Actions (“Plaintiffs”) and/or defendants in the Related Actions (“Defendants”) may seek consolidation of the Related Actions pursuant to Fed. R. Civ. P. 42;

WHEREAS, Defendants Chembio Diagnostics, Inc. (“Chembio”), Richard L. Eberly and Gail S. Page are alleged to have been served with process in the *Chernysh* Action on June 25, 2020;

WHEREAS, the claims asserted in the Related Actions are governed by the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78 u-4, et seq. (the “PSLRA”), which provides a procedure for the appointment by the Court of lead plaintiff(s) and lead counsel to represent the putative class;

WHEREAS, the deadline for any member of the proposed class to file a motion for lead plaintiff is August 17, 2020; and

WHEREAS, the lead plaintiff(s), once designated by the Court, may wish to file a consolidated amended complaint;

WHEREAS, counsel for the parties believe that a response to the *Chernysh* Action, the *Gowen* Action and/or the *Bailey* Action would be premature prior to the entry of an Order by the Court pursuant to the PSLRA appointing one or more lead plaintiffs and lead plaintiff’s counsel.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the undersigned, that:

1. No defendant in any of the Related Actions shall be required to answer or otherwise respond to the complaints filed in any of the referenced individual actions.

2. Within ten (10) days following entry of an order by the Court pursuant to the PSLRA appointing a lead plaintiff and lead counsel, counsel for Defendants and lead counsel for lead plaintiff shall confer and submit a proposed schedule for the filing of a consolidated amended complaint and Defendants' response thereto.

3. Nothing in this Stipulation shall be construed as a waiver of any defense available to any Defendants.

4. There have been no requests for an extension of time previously made in this matter.

5. This stipulation may be signed in counterparts, and copies thereof furnished in electronic format shall be deemed originals for all purposes.

Dated: July 16, 2020

Respectfully submitted,

K&L GATES LLP

By: Joanna A. Diakos
Joanna A. Diakos

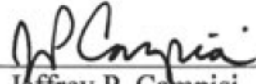
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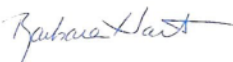
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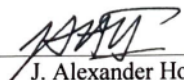
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SO ORDERED:

United States District Judge